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SB 20-007

**REVISED
FISCAL NOTE**

(replaces fiscal note dated March 10, 2020)

Drafting Number: LLS 20-0297
Prime Sponsors: Sen. Pettersen; Winter
Rep. Buentello; Wilson

Date: June 8, 2020
Bill Status: House Health & Insurance
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Bill Topic: **TREATMENT OPIOID AND OTHER SUBSTANCE USE DISORDERS**

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Diversion	<input type="checkbox"/> Statutory Public Entity

The bill makes various requirements concerning treatment for substance use disorders. It will increase state expenditures and create a one-time diversion in FY 2020-21.

Appropriation Summary: The bill requires an appropriation of \$22,372 to the Department of Regulatory Agencies.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill. It was originally recommended by the Opioid and Other Substance Use Disorders Study Committee.

**Table 1
State Fiscal Impacts Under SB 20-007**

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	Cash Funds	\$22,372	-
	Centrally Appropriated	\$5,010	-
	Total	\$27,382	-
	Total FTE	0.3 FTE	-
Diversion	General Fund	(\$27,382)	-
	Cash Funds	\$27,382	-
		\$0	-
TABOR Refund		-	-

Summary of Legislation

Access to treatment—Department of Human Services. The bill prohibits managed service organizations; withdrawal management services; and recovery residences from denying access to medical or substance use disorder treatment services, including recovery services, to persons who are participating in prescribed medication-assisted treatment for substance use disorders.

No prohibition of medication-assisted treatment by courts or corrections. The bill prohibits courts and parole, probation, and community corrections from prohibiting the use of prescribed medication-assisted treatment as a condition of participation or placement.

Coordination of care and prohibition of prior authorization requirements on certain prescriptions—Department of Health Care Policy and Financing. The bill requires managed care entities to provide coordination of care for the full continuum of substance use disorder treatment and recovery.

Insurance coverage and reporting—Department of Regulatory Agencies. The bill requires insurance carriers to cover certain levels of treatment and specific medications, and authorizes the Commissioner of Insurance in DOI to promulgate related rules and accept reporting, as discussed below.

- *Treatment coverage.* The bill requires insurance carriers to provide coverage for the treatment of substance use disorders in accordance with the most recent edition of American Society of Addiction Medicine (ASAM) criteria for placement, medical necessity, and utilization management determinations. The bill also specifies a mechanism for replacing ASAM with another treatment placement tool, if needed.
- *Medication coverage.* The bill authorizes the Insurance Commissioner, in consultation with CDPHE, to promulgate rules, or to seek a revision of the essential health benefits package for prescription medications, for medication-assisted treatment to be included on insurance carriers' formularies. The bill also requires insurance carriers to provide coverage for at least one opiate antagonist.
- *Reporting.* The bill requires that insurance carriers report to the commissioner on the number of in-network providers who are licensed to prescribe medication-assisted treatment for substance use disorders, including buprenorphine; the number of prescriptions filled by enrollees for medication-assisted treatment; and the carrier's efforts to ensure sufficient capacity for and access to medication-assisted treatment. The commissioner is required to promulgate rules concerning the reporting.

Emergency treatment and commitments for substance use disorders. The bill consolidates state laws relating to emergency treatment and voluntary and involuntary commitment of persons for treatment of drug and alcohol use disorders to create a single process that includes all substance use disorders. The changes and additions include:

- defining "administrator" to include an administrator's designee;
- changing terminology throughout to refer to "substances" to include both alcohol and drugs;
- providing that any law enforcement officer, emergency service personnel, physician, spouse, guardian, or relative of any person to be committed; any treatment facility administrator or the administrator's designee; or any other employee or person acting on behalf of an approved treatment facility, participating in or carrying out the emergency commitment and treatment, whether acting individually or in the individual's official capacity, is not criminally or civilly liable;

- adjusting the duration of the initial involuntary commitment from 30 days to up to 90 days;
- allowing a person to enter into a stipulated order for committed treatment, expediting placement into treatment;
- removing the mandatory hearing for the initial involuntary commitment but allowing a person to request a hearing if the person does not want to enter into a stipulated order for committed treatment;
- incorporating in statute "patient's rights" relating to civil commitment;
- using person-centered language throughout the statutory process; and
- relocating the existing Opioid Crisis Recovery Funds Advisory Committee to the new consolidated article.

State Diversions

This bill diverts \$27,382 from the General Fund in FY 2020-21 only. This revenue diversion occurs because the bill increases costs in the Division of Insurance, Department of Regulatory Agencies, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill increases state expenditures from the DOI Cash Fund by \$27,382 and 0.3 FTE in FY 2020-21 only. It will also increase workload and potential expenditures in the Department of Health Care Policy and Financing and the Judicial Department.

Table 2
State Fiscal Impacts Under SB 20-007

Department of Regulatory Agencies	FY 2020-21	FY 2021-22
Personal Services	\$22,372	-
Centrally Appropriated Costs*	\$5,010	-
Total	\$27,382	-
Total FTE	0.3 FTE	-

Division of Insurance, DORA. The DOI will require one-time rulemaking and rate form review to implement the bill estimated to cost \$27,382 and 0.3 FTE in FY 2020-21, paid from the Division of Insurance Cash Fund. The data gathering requirements of the bill can be accomplished with existing resources.

- *Rulemaking.* The DOI will revise four regulations which will require a one-time 0.1 FTE Policy Advisor IV to manage the revisions and related stakeholder meetings and engagement.
- *Rate and form review.* The DOI will perform additional rate and form review of all health coverage filings to ensure compliance with the bill, which will require one-time 0.1 FTE Rate and Financial Analyst II and 0.1 FTE Actuary II. In subsequent years, the adjustment to rate and form review under the bill will be incorporated into the DOI's review procedures.

Department of Health Care Policy and Financing. The department currently provides behavioral, mental health, and substance use disorder treatment services through Medicaid and the Child Health Plan Plus (CHP+). A few components of the bill have potential fiscal impacts to HCPF. These are discussed below.

- *ASAM criteria and insurer requirements.* Requiring ASAM criteria impacts the CHP+ and would require changes to contracts with managed care entities. Any impact to utilization and rates would be adjusted through the annual rate setting process and updated through the annual budget process. Because substance use disorder services are not heavily utilized under the CHP+, the fiscal note assumes a minimal impact.
- *Injectable treatments.* HCPF currently pays the same rate for administration of Vivitrol regardless of where the medication was administered. It covers one non-antagonist injectable medication, Sublocade, and does not allow any payments to pharmacies for its administration. It is assumed that a change in setting will not change utilization.

Judicial Department. The Judicial Department may have a workload impact related to the bill's consolidated process governing the involuntary commitment of persons with alcohol use disorders and substance use disorders and the addition of a new option for the petition respondent to enter into a stipulation for commitment. Stipulations related to commitments may decrease some hearings that would have taken place, while additional respondents may request representation, increasing workloads. Due to the narrowly defined subject matter, any impact is expected to be minimal.

Potential state expenditure. By requiring the ASAM treatment standards, this bill modifies health benefits that health insurance plans must cover in Colorado. To the extent these changes constitute an expansion of health benefits compared to those identified as an essential health benefit in the federal Affordable Care Act, state costs may increase. Under the federal law, states may be required to cover health insurers' costs to provide newly mandated health benefits using state funds, rather than the insurer covering these costs using premiums collected from policy holders. At this time, it is unknown if the federal government would require these payments and the potential costs have not been estimated.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$5,010 in FY 2020-21.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2020-21, the bill requires cash fund spending authority of \$22,372 and 0.3 FTE Division of Insurance Cash Fund to the Department of Regulatory Agencies.

State and Local Government Contacts

Colorado Health Benefit Exchange
Counties
Human Services
Public Health and Environment

Corrections
Health Care Policy and Financing
Information Technology
Regulatory Agencies